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Secretary
Attention: Rulemakings and Adjudications
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Subject: Comments on Rulemaking Petition from the National Mining Association for Waiver of Fees for the Uranium Recovery Industry

On November 2, 2001, the U.S. Nuclear Regulatory Commission (NRC) published notice of receipt of a rulemaking petition from the National Mining Association for the waiver of assessment of all annual and periodic licensing fees imposed on all NRC uranium recovery licensees. NRC also solicited comments on the rulemaking petition.

Envirocare of Utah, Inc., is an NRC-licensed, commercial, Class-A low-level radioactive waste disposal facility and is the nation's premier commercial mixed (radioactive and hazardous) waste treatment, storage, and disposal facility.

Envirocare is opposed to this rulemaking petition because it is not in the public interest as required by 10 CFR 170.11 and 171.11, and hereby submits the following comments:

Fees that are imposed on licensees to provide funds to administer programs for licensing and inspection activities should be based on the actual cost of licensing and inspection of that facility. It is a cost of doing business. When such fees are waived for certain industry segments of a regulated activity, the remaining participants may bear an inequitable and unfair burden.

The NRC is statutorily required to collect nearly all of its operating budget through the collection of fees that are imposed on its licensees. The NRC must continue to regulate the uranium processing industry and it should continue to assess fees against that regulated community in the same manner it assesses fees against the rest of its licensees. The cost of regulation by the NRC is a reality to the NRC regulated community and is a cost of "doing business." Any relaxation of fees on the uranium processing industry would be unfair to the rest of the NRC's regulated community. Otherwise, the remainder of the regulated community will have to pay for the regulation of the uranium processing industry.

In addition, a waiver of fees for the uranium processing industry would amount to an unfair competitive advantage over companies like Envirocare of Utah which competes with the uranium processing industry for the disposal of certain radioactive materials such as 11e.(2) material. The NRC's waiver of all or a part of the fees it charges the uranium processing industry effectively amounts to a subsidy to that industry by allowing it to reduce its costs. Companies like Envirocare, who would remain subject to the same fees, would continue to have these costs and they would be at a competitive disadvantage.

There is public interest in creating competition in the disposal industry that results in low disposal fees. Subsidizing one subset of the waste disposal industry will not attain this result – only an unfair

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advantage for those uranium processing facilities that participate in the waste disposal industry.

Some additional comments regarding the propose fee waiver for the uranium recovery industry are:

- *There remains a viable uranium recovery industry that does not need a subsidy.*
- *If certain technologies are outdated, they should be replaced rather than subsidized.*
- *Uranium processing mills are already a highly competitive low-level waste disposal option – exempting them from NRC fees is not necessary and is unfair.*
- *As an alternative to a subsidy for only uranium processing, NRC should consider subsidizing all low-level waste facilities to reduce disposal fees.*
- *It is also noted that uranium processing facilities already enjoy government subsidies, specifically through an Energy Department program for reimbursements for certain remedial activities.*

Envirocare urges the Nuclear Regulatory Commission to keep fee assessments equitable through comprehensive program participation or through general program funding.

Should you have any questions about these comments, please contact me at (801) 532-1330.

Very Truly Yours,

Jay Vance
Envirocare of Utah, Inc.